

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

M.M. FARRAKHAN

Plaintiff,

v.

9:03-CV-0928
(DRH)

J. BURGE, Superintendent; M.L. BRADT, Deputy
Superintendent of Security; C. GUMMERSON, Captain;
WITHER, Sgt.; R. HEWIT, Correctional Officer

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

M.M. FARRAKHAN
Plaintiff, *pro se*
87-A-3610
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953

SAMUEL C. YOUNG
Costello, Cooney Law Firm - Syracuse
Office
205 South Salina Street
4th Floor
Syracuse, NY 13202

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Department of Law
The Capitol
Albany, New York 12224

ED. J. THOMPSON, ESQ.
Assistant Attorney General

DAVID R. HOMER, U.S. MAGISTRATE JUDGE

ORDER

At the conclusion of a jury trial, this Court entered Judgment in favor of defendants
Burge, Bradt, Gunnerson, and Hewit and dismissed the complaint filed by plaintiff M.M.

Farrakhan in its entirety.¹ See Dkt. No. 75. Plaintiff has appealed the Judgment filed December 8, 2006 to the Second Circuit Court of Appeals. See Dkt. No. 76.

Presently before the Court is plaintiff's request to proceed *in forma pauperis* during the appeal of his case. See Dkt. No. 80.

Because this Court previously granted plaintiff's *in forma pauperis* application (see Dkt. No. 4), and has not revoked same, the previous grant of that status continues and the instant application is denied as moot.²


WHEREFORE, it is hereby

ORDERED, that plaintiff's request to proceed with the appeal of this matter *in forma pauperis* (Dkt. No. 80) is denied as moot, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

DATED: February 15, 2007
Albany, New York


United States Magistrate Judge

¹ This Judgment was filed on December 8, 2006. See Dkt. No. 75. On December 7, 2006, this Court granted defendant Wither's motion for Judgment as a Matter of Law and dismissed plaintiff's complaint as to him. See Dkt. No. 67.

² Neither this ruling nor the prior granting of plaintiff's application to proceed *in forma pauperis* in any way prevents the Second Circuit from collecting the fees due it in light of the Prison Litigation Reform Act. See Pub.L. No. 104-134, 110 Stat. 1321.